

UNITED STATES DISTRICT COURT

NORTHERN

DISTRICT OF

ILLINOIS, EASTERN DIVISION

UNITED STATES OF AMERICA

v.

MARIO LOPEZ-GARAY

MAGISTRATE JUDGE MASON

CRIMINAL COMPLAINT

CASE NUMBER:

08CR

648

I, the undersigned complainant, being duly sworn on oath, state that the following is true and correct to the best of my knowledge and belief. On or about August 3, 2008, in Bolingbrook, Illinois, in the Northern District of Illinois, Eastern Division, defendant herein,

an alien, who had been previously deported and removed from the United States on or about December 2, 2005, subsequent to a conviction for commission of an aggravated felony, was present and found within the United States without previously having obtained the express consent of the Secretary of the Department of Homeland Security for reapplication for admission into the United States;


in violation of Title 8, United States Code, Sections 1326(a) and(b)(2); and Title 6, United States Code, Section 202(4). I further state that I am an agent with the U.S. Immigration and Customs Enforcement ("ICE") and that this complaint is based on the facts contained in the Affidavit which is attached hereto and incorporated herein.

FILED

AUG 14 2008

AUG 14, 2008

**MICHAEL W. DOBBINS
CLERK, U.S. DISTRICT COURT**



Signature of Complainant
Jason Hines
Agent, U.S. Immigration and Customs Enforcement

Sworn to before me and subscribed in my presence,

August 14, 2008
Date

at Chicago, Illinois
City and State

MICHAEL T. MASON, U.S. Magistrate Judge
Name & Title of Judicial Officer



Signature of Judicial Officer

AFFIDAVIT IN SUPPORT OF CRIMINAL COMPLAINT

I, Jason Hines, being duly sworn, state as follows:

1. I am an Immigration Enforcement Agent ("IEA") with the United States Department of Homeland Security, Border and Transportation Security Directorate, U.S. Immigration and Customs Enforcement ("ICE"). I have been employed by this agency for more than eighteen (18) months. I am currently assigned to the Chicago, Illinois ICE Office.
2. In my employment, I am assigned to investigate alleged violations of the Immigration and Nationality Act, including activities which constitute the illegal re-entry of aliens into the United States after such aliens have previously been lawfully deported.
3. I make this affidavit from personal knowledge based upon my participation in this investigation, review of immigration records, review of court records, and a review of the reports from my agency's files. I submit this affidavit for the limited purpose of establishing probable cause in support of a criminal complaint against MARIO LOPEZ-GARAY. This affidavit does not contain all details or all facts of which I am aware relating to this investigation.
4. The defendant, MARIO LOPEZ-GARAY, has alien registration number A 097 332 942. According to ICE service file for LOPEZ-GARAY, alien registration number A 097 332 942, he is a citizen of Mexico who is not a legal permanent resident or a citizen of the United States.
5. I have reviewed the ICE service file for MARIO LOPEZ-GARAY, alien registration number A 097 332 942. LOPEZ-GARAY was ordered deported and removed from the United States on December 2, 2005, following a conviction for an aggravated felony, namely, armed robbery/armed with a firearm, in violation of Illinois statute 720 ILCS 5/18-2(a)(2), in Will County, Illinois. LOPEZ-GARAY was convicted of this offense on or about March 20,

2003, in the Circuit Court of Will County and was sentenced to seven years imprisonment in the Illinois Department of Corrections.

6. On or about August 3, 2008, the Bolingbrook Police Department executed an arrest warrant for LOPEZ-GARAY and he was taken into custody. On August 3, 2008, the Bolingbrook Police Department contacted the ICE Law Enforcement Support Center ("LESC") in Williston, Vermont, which determined that LOPEZ-GARAY had previously been deported from the United States.

7. On or about August 12, 2008; ICE took LOPEZ-GARAY into administrative custody for deportation proceedings. On or about August 13, 2008, I interviewed LOPEZ-GARAY at the ICE Chicago Field Office. Prior to questioning, I advised LOPEZ-GARAY of his constitutional rights pursuant to *Miranda*, and he agreed to answer questions without an attorney present. LOPEZ-GARAY stated that he was a citizen of Mexico and that he had not applied for permission to enter the United States. He also stated that he had previously been deported from the United States. LOPEZ-GARAY's file contains no evidence that he applied for or received the express consent of the Attorney General or Secretary of Homeland Security for reapplication for admission into the United States.

8. I compared photographs taken of LOPEZ-GARAY from his August 12, 2008, ICE arrest with photographs taken from LOPEZ-GARAY's prior deportation and removal on or about December 2, 2005, and determined that the photographs relate to the same individual. On or about August 13, 2008, a query of the Federal Bureau of Investigation's Integrated Automated Fingerprint Identification System ("IAFIS") indicated that the fingerprints of LOPEZ-GARAY, who is currently in ICE custody, match the fingerprints of LOPEZ-GARAY when he was

deported on or about December 2, 2005; which in turn match the fingerprints of LOPEZ-GARAY when he was convicted on or about March 20, 2003, in Will County, Illinois, for armed robbery/armed with a firearm.

9. Based upon the foregoing, I submit that there is probable cause to believe that LOPEZ-GARAY is in the United States in violation of Title 8, United States Code, Sections 1326(a) and (b)(2), in that he reentered the United States without permission after being deported.



JASON HINES, Immigration Enforcement Agent
U.S. Immigration and Customs Enforcement

SUBSCRIBED AND SWORN TO BEFORE ME
this 14th Day of August, 2008.



MICHAEL T. MASON
United States Magistrate Judge